



# United States Senate

WASHINGTON, DC 20510-0905

April 9, 2009

BILL NELSON  
FLORIDA

Joyce K. Frank  
Acting Associate Administrator for Congressional and  
Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue Northwest, Rm. 3426 ARN  
Washington, DC 20460

Dear Mr. Administrator:

I am referring the enclosed inquiry from my constituent, Charles Husick, regarding sewage disposal from recreational vessels to your office.

My constituent would appreciate your careful consideration of these remarks, and your thoughts on what remedies there are for this situation. Please respond directly to him and send a copy to me.

The Honorable Bill Nelson  
United States Senate  
Washington, DC 20510  
Attention: Laura Glickman

I thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Bill Nelson". The signature is written in a cursive, flowing style.

## EPA / Marine Sanitation Devices (MSDs)

### Briefing Paper; Environmentally Safe Disposal of Sewage From Small (Less Than 20 meter) Recreational Vessels

#### The Problem:

The continued application of 35+ year old, outdated EPA rules for the discharge of treated sewage from small vessels discourages boat owners from buying and using available waste treatment equipment that has been proven by EPA test to surpass the existing treatment standard by a factor in excess of 100:1. The result is unnecessary pollution of coastal waters.

#### Recommended Solution:

Create a new treatment standard 100 times more demanding than the existing standard. Change EPA rules to permit and encourage vessels less than 20 meters in length to use equipment that meets the new standard in all US tidal waters other than those where scientific test demonstrates that the discharge of waste treated in accordance with the new standard would cause measurable harm to the aquatic environment.

#### Background:

Title 40, Protection of the Environment, Part 140, Marine Sanitation Device Standard 140.3, published in 40 FR 4622, January 30, 1975 established regulations for the use of and standards for the performance of Coast Guard Certified Marine Sanitation Devices, including flow-through devices that treat and then discharge the treated waste into the water surrounding the boat. The specification states that "the effluent shall not have a fecal coliform bacterial count of greater than 1,000 per 100 milliliters nor visible floating solids". This specification for a Type I Marine Sanitation Device (MSD) has remained in effect for boats less than 20 meters in length since 1975. (A different and somewhat more stringent standard applies to boats longer than 20

meters in length). The test standards for such devices are provided in 33 CFR 159.121.

The provisions of 40 CFR Part 140 include procedures whereby a state may apply to the EPA for approval of a “No Discharge Zone” (more accurately a No Treatment Zone) in which the waste from a Coast Guard Approved Type I MSD may not be discharged into the sea. In such areas all waste must be retained on board the vessel until it is either discharged into a shore-side waste receiving facility (pump-out station) or legally discharged into offshore waters. It is important to note that neither the request for establishment of a NDZ nor the granting of the request requires any evidence that the use of current specification Type I MSDs have, or would have, any effect on the environmental quality of the waters in the proposed NDZ.

#### The Current Situation:

Although Federal funds have been made available for installation of pump-out stations such facilities are often inaccessible, inoperative or inadequate for the boating population in waters designated as no discharge (no treatment) zones. Boat owners who normally operate in such waters are discouraged from installing proven effective on-board treatment systems. The use of holding tanks, Type III MSDs, creates problems; including malodors and the generation of harmful gases that interfere with their use. This and the unavailability of pump-out facilities results in instances of unlawful overboard discharge of untreated waste from vessels equipped with only a Type III MSD, a holding tank.

#### A Recommended Solution:

Improved technology Type I MSDs are widely available that produce an undiluted effluent with a coliform bacterial count of less than 10 per 100 ml; 1/100<sup>th</sup> of the current (unchanged since 1975) specification. We have made repeated requests that the EPA recognize the very substantial progress that has been made in on-board treatment equipment and to both permit and encourage use

of this equipment in all tidal waters, including those now specified as no treatment zones. (With appropriate exception for bodies of water where valid scientific test shows that discharge of even the minute bacterial level in the effluent of the improved devices should not be permitted).

The EPA has consistently refused (for well over 8 years) to change the regulations that establish and continue the no treatment zones in effect, claiming that they had no funds for the test of the improved equipment they claimed to be necessary before the rule change we requested could be made.

At our request and through the interest and efforts of members of Congress \$200,000 was made available to the EPA for the purpose of testing the new technology equipment. The results, provided in a preliminary EPA report show the treatment result noted above; an undiluted effluent that is cleaner than the water in which the boat is floating. (We have been waiting for more than 6 months for the final report from the EPA).

My Request to Senator Nelson:

I am respectfully requesting Senator Nelson's assistance to require that the EPP (which is required to use "best available practice" to safeguard the environment) recognize the availability and value of the new technology on board flow through treatment equipment. That they both permit and encourage its use as described above.

There is no need for government funding of any kind. Boat owners are now buying and installing this equipment and will purchase substantially more of these US made devices if they know that they will be permitted to use them in the waters in which they sail (no one will willingly use a holding tank if there is a lawful and effective alternative).

Personal Information:

I am a private citizen, engineer, technical consultant in marine and aviation and a journalist writing for many of the US boating publications. A former Chairman and President of the Chris Craft Boat Company, I own a boat and hold a Coast Guard Masters License. I serve on the BoatUS Advisory Council and as a member of the Board of Directors of the Radio Technical Committee for Maritime Services. I am not paid to engage in this work by any person, company or organization. I will travel to Washington or to any other appropriate location in furtherance of the goal of changing the regulations that are causing unnecessary pollution of our coastal waters. None of us would willingly live with the vehicle emission and related clean air regulations that were acceptable standards in 1975! We should not have to suffer the continued imposition of the 1975 EPA waste treatment and disposal rules.

4 March 09

Charles B. Husick

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